THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos.17997 & 20164 of 1997, 17578 of 2002, 17464 of 2003 and 21701 of 2004

Date: 21.11.2007

Between:

J.Ram Reddy and others.

....Petitioners

And

The Mandal Revenue Officer and others.

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos.17997 & 20164 of 1997, 17578 of 2002, 17464 of 2003 and 21701 of 2004

COMMON ORDER:

W.P.Nos.17997 & 20164 of 1997 and 17464 of 2003 are filed by the legal representative of assignee of the land, admeasuring Ac.4.31 guntas in Survey No.113/2 of Anantapur. W.P.No.17578 of 2002 is filed by Muthyalama Colony Sankshema Sangham and W.P.No.21701 of 2004 is filed by the individual allotees of house site pattas in a part of the said land. Hence, these five writ petitions are disposed of through a common order.

The land was allotted in favour of one Sri J.Konappa several decades ago. After his death, his son, by name Ram Reddy (hereinafter referred to as 'assignee') succeeded to the

same. Through his proceedings, dated 20.02.1996, the Joint Collector, Anantapur directed resumption of the land. The assignee filed W.P.No.10493 of 1996, on the ground that the order of resumption was not preceded by a show cause notice. The said writ petition was allowed, through order, dated 27.06.1997, declaring that the order of resumption is violative of principles of natural justice. It was left open to the competent authority to pass necessary orders in accordance with law.

It is stated that on 16.03.1996, house site pattas were granted to the petitioners in W.P.No.21701 of 2004, over a part of the said land. The assignee filed a representation before the District Collector with a prayer to give effect to the orders of this Court in W.P.No.10493 of 1996, particularly in the context of the allotment of house sites. The District Collector issued proceedings, dated 31.07.1997, directing the Mandal Revenue Officer to take necessary steps, for resumption of the assigned land, on the ground that the conditions of assignment were violated. The assignee filed W.P.No.20164 of 1997 challenging the said proceedings. He has also filed W.P.No.17464 of 2003, with a prayer to direct the respondents to restore the land in its original form.
The Mandal Revenue Officer issued a memo, dated 08.07.1997, to the assignee, directing him not to enter the assigned land. The same is challenged in W.P.No.17997 of 1997.

The Welfare Association, on the one hand, and the individual allottees of house site pattas, on the other, filed W.P.No.17518 of 2002 and W.P.No.21701 of 2004, with a prayer to declare the action of the revenue authorities in trying to demolish their houses, as illegal and arbitrary.

Sri K.Raghuveer Reddy, the learned counsel for the assignee submits that after W.P.No.10493 of 1996 was allowed by this Court, no orders of resumption or cancellation of assignment were passed and that the assignment is in force. He contends that the house site pattas were granted, as regards a part of the land, even while the said writ petition was pending, and once the order of resumption was set aside, the revenue authorities were under obligation to restore possession of the same to his client. He further contends that there is absolutely no legal or factual basis for the District Collector to order resumption, even while he happens to be the appellate authority, and the Mandal Revenue Officer, in issuing the memo to his client not to enter the land.

Sri C.Damodar Reddy, the learned counsel for the allottees of house site pattas and the Welfare Association submits that the house site pattas were granted at a time, when the order of resumption was in force, and the beneficiaries have already constructed houses thereon. He also submits that the houses, which were constructed on the strength of such pattas, cannot be demolished at this stage, on the sole ground that W.P.No.10493 of 1996 was allowed.

The learned Government Pleader for Assignment, on the other hand, submits that the various orders and proceedings challenged in these writ petitions were issued, as a sequel to the orders passed in W.P.No.10493 of 1996. It is urged that the effort of the District Collector was only to ensure that the proceedings for resumption of the land were initiated in accordance with law and it is for the Mandal Revenue Officer, to take necessary steps, duly following the procedure.

One hasty step taken by the then Joint Collector has given raise to serous disputes among the assignee, the beneficiaries of house site pattas and the Government. He did not take care to verify as to whether it was competent for him to resume the land, and to know the procedure to be followed in such cases. Soon thereafter, the house site pattas were granted in favour of several persons, over a part of the resumed land. The order of resumption was set aside by this Court, through its order, dated 26.06.1997. This naturally gave raise to an obligation on the part of the revenue authorities to restore the land to the assignee. By that time, certain structures are said to have come into existence. This fact was not adverted to in the order passed by this Court. All the same, steps ought to have been initiated to ensure that the rights of assignee over the remaining extent are not adversely affected and decide the course, as regards the land, that was already assigned as house sites. Either compensation ought to have been paid to the assignee for that portion of the land, which was not restored to him, or the alternative of compensating him in a different manner ought to have been considered.

The proceedings, dated 31.07.1997, have, in fact, complicated an otherwise complex situation. It is noteworthy that the District Collector was acting upon a representation made by the assignee to restore the land to him, as a consequence of the orders passed by this Court in W.P.No.10493 of 1996. The relief to be given to the assignee in such proceedings is not expected to be in the form of a direction to the Mandal Revenue Officer to resume the land. However, he directed the resumption of the land, without realizing that he is an appellate authority as regards orders of resumption, to be passed by the Mandal Revenue Officer. Still worse is the Memo issued by the latter. It is not in dispute that the assignment in favour of the assignee is subsisting, even as of now. One just cannot understand as to how an assignee can be prevented from entering the land, even while the assignment subsists.

A further curious aspect of the matter is that the Mandal Revenue Officer himself issued proceedings, dated 16.11.2004, directing removal of huts in the said land, without verifying as to whether the constructions were made on the strength of any assignment or not.

For the foregoing reasons, W.P.Nos.17997 and 20164 of 1997 are allowed and the proceedings challenged therein are set aside. W.P.Nos.17578 of 2002, 17464 of 2003 and 21701 of 2004 are disposed of, directing that the District Collector, the Joint Collector and the Mandal Revenue Officer shall ensure that the possession of the land in Survey No.113/2 of Anantapur is restored to the assignee, except to the extent of the house pattas granted on 16.03.1996.

So far as the land covered by house site pattas is concerned, the following alternatives shall be considered:

a) The persons, who are inducted in possession on the strength of house site pattas be continued, if necessary by collecting any nominal amount or by allocating funds from the Government, to be paid compensation to the assignee; or

b) The assignee himself be provided the land of equivalent value elsewhere.

This exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

21.11.2007

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